

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION

JANE DOE, by and through her
Grandmother, Guardian, and
Next Friend, EDEL TRAUD MADSEN

PLAINTIFF

v.

CIVIL ACTION NO. 2:08CV007-B-A

DESOTO COUNTY SCHOOL DISTRICT,
MICHAEL MURPHY, as Principal of Olive
Branch High School and UNKNOWN PERSONS
1-25

DEFENDANTS

ORDER

Defendants DeSoto County School District and Michael Murphy seek disclosure by the court to counsel of certain records produced to the court under seal by the Olive Branch, Mississippi Police Department, contending that the records are necessary to assert a complete defense against the charges brought against them. The plaintiff has not responded to the motion.

The documents to which access is sought are investigation records compiled by the Olive Branch, Mississippi Police Department as a result of the alleged incident which gave rise to this action— sexual misconduct between two minors at Olive Branch High School on January 11, 2005. The complaint, brought by the grandmother and guardian of one of the minors involved, asserts various claims, including negligence, gross negligence, violations under 42 U.S.C. §1983, unlawful discrimination under the American with Disabilities Act, unlawful discrimination under the Rehabilitation Act, and unlawful discrimination under the Civil Rights Act of 1964.

The defendants now wish to view the investigation records at issue, claiming that these records may contain relevant information to the action, provide a “total view of the incident at

issue in this suit,” and aid in the defendants’ “right to assert a complete defense.” Defendants acknowledge that Miss. Code Ann. § 43-21-259 provides that children’s records “shall be kept confidential and shall not be disclosed except as provided in § 43-21-261,” which specifies persons to whom records may be disclosed. Miss. Code Ann. § 43-21-259 (2008). However, citing *Daniels v. Wal-Mart Stores, Inc.*, 634 So.2d 88, 93 (Miss. 1993), defendants rely upon the fact that this right is a “qualified privilege” which should be balanced against a defendant’s right to assert a defense.

After balancing these needs, the court agrees that counsel for DeSoto County School District and Michael Murphy should have limited access to the records. While recognizing that the offered statutes and case law are within the context of youth court proceedings and youth court records, the court agrees that the requested records are clearly relevant to the claims filed by plaintiff against the defendants, as they contain information collected by law enforcement in its investigation following the incident, and could help the DeSoto County School District and Michael Murphy develop a proper defense to the action brought against them.

However, in keeping with the need for confidentiality, only counsel for DeSoto County School District and Michael Murphy may examine the documents. Further, counsel is ordered to treat the information as strictly confidential until such time as it is received into evidence at the trial. If at any point it is determined that this confidential information is disseminated beyond DeSoto County School District’s and Michael Murphy’s attorneys, sanctions may be imposed for failure to comply with this Order.

It is **ORDERED**

That defendants’ motion for limited disclosure is GRANTED, subject to the limitations imposed by this Order.

This the 4th day of September, 2008.

/s/ S. ALLAN ALEXANDER
UNITED STATES MAGISTRATE JUDGE